

Partners for Success – Illegal Subdivisions Task Force February 14, 2008

Key Notes of Task Force Meeting:

Goal to protect the public; Sources and ways to protect the public:
Through Title Companies, Utility Companies, Real Estate Schools, real estate classes; COE'S
(Community Outreach and Education programs), seminars, flyers; public points of contact.

Harmful Effects on Consumers:

Caused by or a result of: Lack of Disclosures,

Fraudulent Disclosures,

Inadequate disclosures

Title Officers writing Legal Descriptions for lot splits

Real Estate licensees failing to disclose, failing to be "responsible"

Some remedies: Flood Plain requirement on Plat;

Affidavit of Disclosure requirement

Require Surveys on all transfers

Real Estate licensees' and listing agents' responsibilities; full disclosure

Definitions- *Acting in Concert* - State, County & City, (continuity)

only has to be an "agreement" to act together (not agreement to violate law)

Common Promotional Plan –i.e. common name, common units,

Harmful Effects on Counties and Cities: Costs each County \$

\$100,000,000 in costs – For one County for Infrastructure(s);

Also Affects the **legal** subdividers & developers and Road improvement & maintenance districts (\$)

Red Flags //// **Illegal vs Unregulated (or "wildcat")**

Common use of 1 surveyor

Road grading, utilities going in

Variance requests

Multiple 5 splits

Large number of Deeds --- recorded at the same time.

Well agreements

For Sale sign(s) on property

Strategies for early detection: Review lots splits "surrounding" the lot splits

County Recorder to verify w/ county services.

Enact Lot Split ordinance(s) and review

Repercussion = NO building permit(s) issued.

Strategies: Working Together (State, Counties, Cities)

ADRE: Unsubdivided land reports - notify counties when ADRE issues unsubdivided land reports; provides “heads up” to counties of possible potential for further splitting)

IGA (Inter Governmental Agreement)- actual agreement entered into between ADRE and County) - share resources and information back and forth; provides a “United” Front; State’s Subpoena power will cover county also; ADRE assigned Investigator (no fees or mandates).

Increased Education - for Title Companies, Real Estate licensees, County Recordors, Consumers; COE’s

Stronger Deterrents - issue civil penalties, increase Civil Penalties – from \$1,000 to \$5,000 per violation.

Protection for those who are operating legally.

Different agencies; may be able to implement more;

Land Split Ordinance - stiffer requirements;
“Small Lot” Subdivision plat & requirements

Problems also lie with ADWR requirements & possibly ADEQ.
Any changes at County levels may create problems with ADWR & ADEQ in adapting.

Investigative Process

Complaint Is it True? ADRE Jurisdiction? If it is true? What type of violation?
Cases are opened; case number and investigator assigned.

Subpoenas

ADRE can issue subpoena; also Attorney General’s office; In State violators; not as much “teeth” on violators residing out of state.

Complaint - not from county: go to county for information first; as it may have already been researched at the county level; save time and resources.

Complaint - from county: county to provide as much information and documents upfront. County involvement & feedback is vital to work together, County and State to assist each other.

Fact Gathering: Important information that should be obtained; to better investigate the case and make it successful,

Research- titles; transfers; survey(s) (by whom & when), utilities -- ordered by whom?

Permits – pulled by whom?

Follow the money

Written statement(s) from Respondent(s); also interview Respondent(s).

Same Broker/agents?

Use of graphs, charts; easier to track people, and parcels.

Case numbers and identifiers:

Use or reference same name or same case numbers/identifiers in referring to cases- between state and counties.

Under Investigation:

County to halt building permits

County to Issue letter to “violator(s)”

Request an Investigation

At the County level—don’t wait on ADRE

Investigation Complete; file then referred to E & C. (Old terminology..File closed, report to Legal; New terminology- “Complete” ... and referred to E & C)

Enforcement & Compliance (E & C)

Reach a settlement

Consult with City or County, for specific input or specific requirements

Consent orders

Cease & desist; record against title.

Cooperate with County

How to handle cases

1. Developer no longer owns the land

2. Longer timeframe in Consent Order to work with county; will grant extension

Specific input from County on requirements to be met in Consent Order.

Feedback to County on insufficient evidence;

Advise County reason for closing investigation or case file;

Closed cases can be reopened with more evidence.

Respondent(s) to work together with counties.

County to provide evidence to ADRE of complying with county.

ADRE –

Spend time on cases we can prove

Less “fishing” with this Administration;

Be proactive & refer to Development Services.

Non-Compliance of consent orders

- File for receivership
- Seize assets through county level
- Use of surety or improvement bonds
- Superior Court (refer to)
- County Attorney's fees, add to Consent Order

ADRE to inform counties of "final action" i.e. Cease and Desist.

Next Steps

Another meeting – continuing the dialog; Legislative changes; Implement strategies;
Future Task Force meetings